## Covernment of the District of Columbia zoning commission



### ZONING COMMISION ORDER NO. 855-A CASE NO. 98-1M/97-9C

# (MINOR MODIFICATION TO AN APPROVED PLANNED UNIT DEVELOPMENT AT 2200 M STREET, N.W.)

Pursuant to notice, a public meeting of the Zoning Commission for the District of Columbia was held on October 19, 1998. At the meeting, the Zoning Commission approved an application from Millennium Partners of Washington, D.C., Inc. ("Millennium") for a minor modification to an approved planned unit development (PUD), amendment to the zoning map and utilization of District of Columbia airspace for property at premises 2200 M Street, N.W., pursuant to Chapter 24 and the Consent Calendar Regulations of Chapter 30, of the District of Columbia Municipal Regulations ("DCMR"), Title 11, Zoning. Because the modification were deemed minor, a public hearing was not conducted.

The Commission determined that this modification request is properly before it under the previsions of Section 2409.0 and 3030 of the Zoning Regulations.

#### FINDINGS OF FACT

By Z.C. Order No. 833, dated January 12, 1998 the Commission approved an eleven story mixed-use building on lot 76 and rezoned lot 76 from the C-2-C zone district to the CR zone district. The original PUD included residential, retail and health and sports club uses.

By Z.C. Order No. 855, dated October 23, 1998 the Zoning Commission granted final approval of a modified PUD for the Subject Site., which consists of 104,458 square feet of land (including 7,074 square feet of alley area). The Subject site is bounded by 22nd Street, N.W. and New Hampshire Avenue, N.W. to the east, L Street, N.W. to the south, 23rd Street, N.W. to the west and M Street, N.W. to the north.

Z.C. Order No. 855 approved a mixed-use development which consists of a 300 room luxury hotel, 160-230 residential units, a state-of-the-art health and sports club and additional retail spaces. The order also rezoned lots 74, 878 and 877 from the C-2-C and R-5-E zone districts to the CR zone district and permitted the utilization of District of Columbia airspace.

Millennium seeks a minor modification of the approved PUD to add approximately 9,000 square feet of residential gross floor area to the project. This additional area would extend the residential floor plate across the west side of the public alley on the fifth through eleventh floors. The additional area would be setback 10 feet from the 23rd Street facade of the project.

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The proposed minor modification removes a condition where the windows of the residential units in the approved PUD would have faced each other across only a twenty-three foot, six inch separation. The proposed minor modification permits a more beneficial layout of twelve residential units, increases the floor area of those units and more fully integrates the residential components of the project north and south of the existing public alley.

The proposed minor modification does not affect the number of residential units in the project, change the mixture of uses in the project or change any other conditions of the approved PUD. As a result of the proposed alterations, the amount of gross floor area in the project has increased to approximately 720,542 square feet from 711,542 square feet, a change of 1.26 percent.

Copies of the PUD modification application were mailed to Advisory Neighborhood Commission (ANC) 2A and the Carriage House Condominium Association, the parties to the approved PUD, on October 9, 1998.

ANC 2A did not participate in this minor PUD modification application.

The Deputy Zoning Administrator of the Department of Consumer and Regulatory Affairs (DCRA), by letter dated October 2, 1998, confirmed that the proposed minor modification is within the authority of the Chief of the Zoning Regulations Division of DCRA to approve pursuant to Section 2409.6 of the Zoning Regulations. (Statement at 3, Exhibit C)

The Office of Planning, by letter dated October 6, 1998, confirmed its support of the proposal from both a planning and design standpoint

On October 19, 1998 at its regular monthly meeting, the Zoning Commission reviewed the application as a Consent Calendar matter and granted approval of the minor modification to the approved PUD.

The Zoning Commission concurs with the applicant that approving the application is appropriate and not inconsistent with the intent of 11 DCMR 2409.9 and 3030.

The Zoning Commission further believes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and the Zoning Act.

#### **CONCLUSIONS OF LAW**

Upon consideration of the record in this application, the Zoning Commission concludes the proposed modifications are minor and consistent with the intent of the previously approved Zoning Commission Order No. 855-A. Further, the Commission believes that its decision is in the best interest of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations.

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The approval of the modification is not inconsistent with the Comprehensive Plan. Further, the proposed modification only concerns the addition of a minimum amount of residential gross floor area to the project and does not change any other guidelines and standards. The material facts relied on by the Commission in approving the modified PUD in Z.C. Order No. 855 have not changed. The modification is so minor that consideration as a consent calendar item without public hearing is appropriate.

#### **DECISION**

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission for the District of Columbia hereby orders APPROVAL of the application for a minor modification of an approved PUD for Lots 74, 76, 877 and 878 in Square 51 at 2200 M Street, N.W. The approval of this minor PUD modification is subject to the following guidelines, conditions and standards:

The minor modification shall allow for the addition of 9,000 square feet of residential gross floor area to the approved PUD on the fifth through eleventh floors of the project on the western portion of the site over the existing public alley.

Pursuant to the intent of 11 DCMR 2409.3, no building permit shall be issued by the Department of Consumer and Regulatory Affairs (DCRA) for the minor PUD modification until the applicant has recorded a "Notice of Modification" of Z.C. Order No. 855 with the land records of the District of Columbia. That Notice of Modification shall include true copies of Z.C. Order No. 855 and this order, which the Director of the Office of Zoning has certified. The recordation of the Notice of Modification shall bind Millennium and any successors in title to construct on and use this site in accordance with this order and any amendments thereof.

After recordation of the Notice of Modification, Millennium shall promptly file a certified copy of that Notice of Modification with the Office of Zoning for the records of the Zoning Commission.

The minor PUD modification approved by the Zoning Commission shall be valid for a period of two years from the effective date of this order. Within such time, an application must be filed for a building permit as specified in subsections 11 DCMR 2409.2 and 2409.3 of the Zoning Regulations. Construction shall start within three years of the effective date of this order.

Vote of the Zoning Commission taken at its public meeting on October 19, 1998: 4-0 ( John G. Parsons, Anthony J. Hood, Herbert M. Franklin, Angel F. Clarens to **APPROVE**; Jerrily R. Kress, not voting, not having heard the case).

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The order was adopted by the Zoning Commission at its public meeting on November 9, 1998, by a vote of 5-0 to **APPROVE** (John G. Parsons, Anthony J. Hood, Herbert M. Franklin, Angel F. Clarens and Jerrily R. Kress).

In accordance with the provisions of 11 DCMR 3028.8, this order shall become final and effective upon publication in the D.C. Register; that is on \_\_\_\_\_\_\_\_\_.

ERRILY R. KRESS, FAIA

Chairperson

Zoning Commission

SHERI M. PRUITT-WILLIAMS

**Interim Director Office of Zoning** 

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